

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ELSIE TOM, as personal representative
of the Estate of Sam Tom,

Plaintiff,

v.

CV 10-1257 LH/WPL

S.B., INC., et al.,

Defendants.

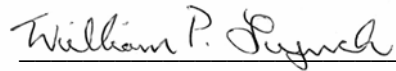
ORDER DENYING UNOPPOSED MOTION
FOR AN ORDER TO SHOW CAUSE

This matter is before me on Plaintiff's Unopposed Motion for an Order to Show Cause. (Doc. 103.) Plaintiff scheduled a deposition of Navajo Police Officer Willis Martine for May 9, 2012, because he witnessed the automobile accident at issue in this lawsuit. (Doc. 103 at 1-2; Doc. 103 Ex. A-2.) Officer Martine did not appear for the deposition. (Doc. 103 at 2.) The following day Officer Martine contacted Plaintiff's counsel and informed counsel that the Navajo Nation Department of Justice had instructed him not to appear at the deposition without its permission. (*Id.*) The parties rescheduled the deposition, and Plaintiff filed this motion for an order to show cause directed at the Navajo Nation Department of Justice or the Navajo Nation Attorney General as to why I should not hold them in contempt of court. (Doc. 103 at 2.)

There are a number of issues with this motion, but the one of primary concern is the complete absence of legal authority supporting Plaintiff's request. A motion must be supported by legal authority. *See* D.N.M.L.R.-Civ. 7.3(a). The dearth of law is particularly problematic because it is unclear whether I may issue a show cause order on a non-party that happens to be a sovereign

nation. Further, it is not clear if I may even hold this sovereign nation in contempt, given that the Navajo Nation Department of Justice was never served a subpoena; rather, the parties served a separate individual. In fact, it appears as if the Department of Justice and Attorney General have not been served a copy of this motion. For this reason, I deny Plaintiff's motion. Plaintiff may file another Motion for Order to Show Cause that addresses the issues raised in this Order.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "William P. Lynch", is written over a horizontal line.

William P. Lynch
United States Magistrate Judge

A true copy of this order was served on the date of entry--via mail or electronic means--to counsel of record and any *pro se* party as they are shown on the Court's docket.